

I hereby certify that this correspondence is being sent by  
facsimile transmission to: (703) 305-3718

Examiner STEVE GARLAND

On JUNE 28, 2000

TOWNSEND and TOWNSEND and CREW LLP

By: *Nancy A. Pizzo*

NANCY A. PIZZO

PATENT

Attorney Docket No.: 0287S-004820US  
Client Reference No.: P-3026



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

PHILIP S. GREEN

Application No.: 08/709,930

Filed: September 9, 1996

For: SURGICAL SYSTEM

Examiner: GARLAND, Steven

Art Unit: 2786

INTERVIEW SUMMARY

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

Please enter the following Interview Summary in the record for this  
application:

Applicant's representative thanks the Examiner and the Examiner's supervisor, William Grant, for the courtesy shown in a series of telephone conversations from the 12<sup>th</sup> to the 14<sup>th</sup> of June, 2000, and for an in-person interview conducted on June 22, 2000 at the USPTO. Applicant's representative discussed claims 113, 115, 118-122, 138, and 144. Agreement was reached that claims 115, 119-122, and 144 would be allowable to Applicant, but correspond to claims of issued U.S. Patent Nos. 5,878,193; 5,855,583; and 5,907,664. Hence, Applicant is entitled to interferences with each of these three patents.

Regarding claims 138, 139, and 141, Applicant understands that the Examiner intends to maintain the current rejection of these claims under 35 U.S.C. §135(b). With the sole exception of this §135(b) rejection, the Examiner has indicated that these claims are allowable to Applicant, but correspond to claims of U.S. Patent No. 5,815,640. Hence, if the

PHILIP S. GREEN  
Application No.: 08/709,930  
Page 2

PATENT

rejection under §135(b) is overcome, the Examiner has agreed that Applicant would be entitled to an interference with the '640 patent.

Applicant and the Examiner have agreed to seek concurrent Appeal and Interference proceedings for this case. As suggested by the Examiner (to allow concurrent proceedings to begin in a timely manner) Applicant has canceled several claims from this application, and Applicant will limit the appealed issues to the §135(b) rejections of claims 138, 139, and 141. Applicant reserves the right to address or appeal all other issues during and/or after the interference proceedings. Applicant gratefully acknowledges that the Examiner has agreed to prepare and send to the Board an Interference Initial Memorandum and Statement under 37 C.F.R. §1.609(b) for each of the '193, '583, and '664 patents without delay (after mailing of the second Office Action for this case, and while Applicant pursues the Appeal of the §135(b) issue).

Finally, regarding canceled claim 145, Applicant acknowledges that the Examiner has indicated that this claim is allowable to Applicant and does not correspond to claims of the patents with which interferences have been requested. As suggested by the Examiner, Applicant will file a continuation application to allow a patent to issue with this claim.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Mark D. Barrish  
Reg. No. 36,443

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, 8<sup>th</sup> Floor  
San Francisco, California 94111-3834  
Tel: (415) 576-0200 / Fax: (415) 576-0300  
MDB:nep  
PA 3080189 v1